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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/699,659

11/04/2003

Yi Mei Hsieh Chen

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EXAMINER

FAULCON JR, LENWOOD

ART UNIT

PAPER NUMBER

3762

DATE MAILED: 05/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/699,659

Applicant(s)

HSIEH CHEN, YI MEI

Examiner

Lenwood Faulcon, Jr.

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

2. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., watch-like body, PC board being inside the body, when gripping the detachable fastening belt forms an electrical connection) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Examiner takes the position that the term "waterproof" as claimed in claim 1, is not supported in the specification and thus constitutes new matter. Examiner notices that Applicant's specification does mention that the fastening belts are

made of a "water fast" fabric, but Examiner interprets "water fast" to be a different term/degree than that of "waterproof."

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Examiner takes the position that the positive and negative electrodes as claimed in claim 20, are vague since the claim has not set forth any structure or power source to apply a potential across the electrodes to make them a positive or negative electrode. It is suggested to change the claim to "adapted to be a positive electrode" for example, since it appears that all that is being claimed is an electrode/conductive material, thus the Examiner has interpreted the claim as being just an electrode.

Claim Rejections - 35 USC § 103

7. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sackner et al. (U.S. Patent No. 6,551,252) in view of Nissila (U.S. 2002/0068873).

In regards to claim 1, Examiner maintains the position that the Sackner et al. reference teaches of a heart beat signal wireless transmitter (see for example col. 5 lines 66-67 and col. 6 lines 1-11) comprising a body/monitoring garment (1) having at least two sides which construct a modular structure (see for example Figure 5), a PC board carrying a signal transmitter (see for example 42, 43 and 44) for use with ECG data (col. 25 lines 65-67), and a fastening device (41) which is at least on two sides of

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the body (see for example Figure 5) in which the disclosed zipper is inherently separately connected to the two sides of the body. Examiner takes the position that the fastening device (41) could obviously be substituted with the tightening/clamping device (8), since both provide a fastening/securing purpose (see for example col. 15 lines 23-49 and col. 25 lines 46-56).

Further in regards to claim 1, Sackner et al. also teaches of multiple detachable sensor bands/belts (see for example 4, 5 and 6) which are connected to different sides of the body through the fastening device (see Figure 5), and further comprises a sensor component which comprises conductive material for transmitting ECG signals (col. 25 lines 56-58), and is also in electrical connection with the PC boards (see element 45). Notwithstanding the position that the sensor bands are detachable, Examiner also takes an alternative position that even if the bands are not detachable, it would have been obvious to one having ordinary skill in the art at the time of the invention to have detachable belts, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlicman*, 168 USPQ 177, 179.

Also in regards to claim 1, the Sackner et al. reference does not specifically teach that the fastening bands/belts are made of a waterproof material. However, the Nissila reference teaches that it is well known in the art to use waterproof materials for devices that provide heart beat signal measurements and transmitters (see for example paragraphs 11 and 19). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the system as taught by Sackner et al. to

include waterproof materials to protect the system's water-sensitive components as taught by Nissila.

In regards to claim 2, Examiner takes the position that the flexible sensor bands (4, 5 and 6) as taught by Sackner et al. are inherently made of both a conductive and nonconductive/elastic materials (see for example col. 14 lines 59-62 and col. 25 lines 56-58), whereas the elastic materials are used for providing longitudinal elasticity sufficient to retain the band against the body. In the alternative, Examiner takes the position that it is well known in the art for sensors/electrodes to be made of both a conductive and nonconductive fabric.

In regards to claims 3-4, Sackner et al. teaches that the sensor band are flexible and conductor, which is interpreted as meeting the limitations of compounds with conductive fiber and electronic fiber.

In regards to claims 5-8 and 19, Examiner takes the position that the system as taught by Sackner is capable of being fixed to underwear, including underwear to be worn on the torso, by sewing (see for example col. 14 lines 65-66 and Figure 5).

In regards to claims 9-10, Examiner takes the position that Sackner et al. teaches that various fastening devices are interchangeable, including a buckle assembly and a zipper (see for example elements 8, 32 and 41, col. 14 lines 18-28 and col. 15 lines 41-47), and since the devices provide the same function it would have been obvious to one having ordinary skill in the art to modify an embodiment taught by Sackner et al. to include any of the fastening devices. Similarly in regards to claims 11-16, Examiner takes the position that the Sackner et al. reference teaches of a clamp comprising a

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camping plate and tooth grip piece (see for example col. 14 lines 17-29 and col. 15 lines 41-47).

In regards to claims 17-18, Sackner et al. does not specifically teach of the use of male connecting heads and female connecting holes. However, Nissila teaches that it is well known in the art to use male connecting heads and female connecting holes for electrical connection purposes (paragraph 3). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the system as taught by Sackner et al. to include male connecting heads and female connecting holes as taught by Nissila, since this type of connection is well known in the art for providing and electrical connection, as taught by Nissila.

In regards to claim 20, Examiner acknowledges that neither the Sackner et al. reference nor the Nissila reference specifically teach of having one electrode be a negative electrode and another electrode being a positive electrode. However, Examiner takes the position that it is inherent in the system as taught by Nissila that one of the two electrodes (402 and 404) would be positive and the other would be negative, since this would be required to complete the circuit. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the system as taught by Sackner et al. (see for example Figure 3), to include a positive and negative electrode to provide a complete circuit.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bornn (U.S. Patent No. 5,353,793), Sackner et al. (U.S. Patent

No. 6,047,203), Nissila (U.S. Patent No. 6,580,943), Sackner et al. (U.S. 2002/0032386), Sackner et al. (U.S. 2003/0135127), Sackner et al. (U.S. 2003/0187341).

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lenwood Faulcon, Jr. whose telephone number is 571-272-6090. The examiner can normally be reached on Monday-Thursday from 9 to 5 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela D. Sykes, can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lenwood Faulcon, Jr.



George Manuel
Primary Examiner